

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

394J0073

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 1** - 01/21/2004

Introduced by: Senators Schoenbeck, Abdallah, Ham, Kelly, Moore, Napoli, and Reedy and Representatives Sebert, Burg, Engels, Fryslie, Garnos, Hennies, Murschel, O'Brien, Rhoden, Rounds, Schafer, and Valandra at the request of the Interim Committee on Department of Corrections Agency Review

1 FOR AN ACT ENTITLED, An Act to provide for a Criminal Code Revision Commission and
2 to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The Executive Board of the Legislative Research Council shall establish a
5 Criminal Code Revision Commission during the 2004 legislative interim. The commission shall
6 consist of fifteen members. Thirteen members shall be appointed by the Executive Board. Three
7 shall be state senators, no more than two of whom shall be members of the same party. Six shall
8 be state representatives, no more than four of whom shall be members of the same party. Two
9 shall be distinguished current members of the State Bar of South Dakota with extensive
10 experience as a state's attorney or criminal prosecutor. Two shall be distinguished current
11 members of the State Bar of South Dakota with extensive experience as a public defender,
12 court-appointed attorney for indigent defendants, or criminal defense attorney. No more than
13 three of the nonlegislator members of the commission, who are appointed by the Executive
14 Board, shall be from the same party. Before making the appointments of the nonlegislators, the



1 Executive Board shall solicit the advice and recommendations of the State Bar of South Dakota,
2 the South Dakota Trial Lawyers Association, the South Dakota States Attorney's Association,
3 and other organizations that may wish to participate in the appointment process.

4 Section 2. Two members of the commission shall be appointed by the Chief Justice of the
5 Supreme Court. Each shall be either a current or retired circuit court judge or a retired Supreme
6 Court Justice. Each shall have extensive experience in criminal law.

7 Section 3. The Criminal Code Revision Commission shall carefully examine the crimes, the
8 elements of crimes, and the punishment of crimes, with special reference to legislative revisions
9 made since the conclusion of the work of the previous Criminal Code Revision Commission,
10 to ensure that the elements of each crime are clearly and precisely described, that each crime is
11 necessary and appropriate to the maintenance of public order and a well regulated society, and
12 that the punishment prescribed for each crime is just and proportionate. The scope of authority
13 of the commission is not limited to Title 22, but specifically includes all drug offenses and
14 driving under the influence offenses. Moreover, the commission may, at its discretion, examine
15 any offense, whether inherently criminal, procedural, or administrative, if the offense is
16 punishable as a felony or misdemeanor, or by the imposition of any fine or civil penalty.

17 Section 4. The Criminal Code Revision Commission shall embody its recommendations for
18 amendment of the criminal code in draft legislation and submit its recommendations to the
19 Executive Board no later than the Executive Board's final interim meeting.

20 Section 5. Whereas, this Act is necessary for the support of the state government and its
21 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
22 full force and effect from and after its passage and approval.